

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

NEWPARK MALL LLC,
Plaintiff,

v.

CRGE NEWPARK MALL, LLC, et al.,
Defendants.

Case No. [15-cv-00817-PJH](#) (MEJ)

DISCOVERY ORDER

Re: Dkt. Nos. 37, 42

On November 5, 2015, the Court held a telephonic discovery conference in this case regarding Plaintiff Newpark Mall LLC's request for production of documents, served on September 8, 2015. *See* Dkt. Nos. 37, 42. Michael Lane appeared on behalf of Plaintiff, and Brent Randall Phillips appeared on behalf of Defendants CRGE Newpark Mall, LLC and Boomtown Entertainment, LLC. Discovery is set to close on November 27, 2015. At the hearing, Mr. Lane noted Defendants have failed to comply with their obligations under Federal Rule of Civil Procedure 34 because they have yet to respond to Plaintiff's document requests, which has in turn frustrated Plaintiff's attempt to schedule a Rule 30(b)(6) deposition before the November 27, 2015 discovery deadline. *See* Dkt. No. 34. At the same time, Mr. Phillips stated he is "at a loss" because he has been unable to communicate with his clients as they are "out of business." Mr. Phillips stated he has done all he is able to do to obtain the documents from his clients, but he is unable to provide any further information. Mr. Phillips noted he has also filed a Motion to Withdraw as Counsel of Record for Defendants, which is scheduled for hearing before the presiding judge, the Honorable Phyllis J. Hamilton, on December 2, 2015. *See* Dkt. 41.

Federal Rule of Civil Procedure 26 provides that a party may obtain discovery "regarding any nonprivileged matter that is relevant to any party's claim or defense." Fed. R. Civ. P.

26(b)(1). Any party served with a request for production of documents under Rule 34 “must respond in writing within thirty days after being served.” Fed. R. Civ. P. 34(b)(2)(A). “It is well established that a failure to object to discovery requests within the time required constitutes a waiver of any objection.” *Richmark Corp. v. Timber Falling Consultants*, 959 F.2d 1468, 1473 (9th Cir. 1992).

As Defendants’ failure to provide any responsive documents or objections is unjustified under Rule 34, the Court ORDERS Defendants to produce all responsive documents, without objections, by November 12, 2015. If Defendants fail to respond, Plaintiff shall file a motion for terminating sanctions under Rule 37(b)(2)(A) before the presiding judge.

IT IS SO ORDERED.

Dated: November 5, 2015



MARIA-ELENA JAMES
United States Magistrate Judge